5. Section 114.10 is revised to read as follows:

§ 114.10 Corporations and labor organizations making independent expenditures and electioneering communications.

(a) *General.* Corporations and labor organizations may make independent expenditures, as defined in 11 CFR 100.16, and electioneering communications, as defined in 11 CFR 100.29.

(b) *Reporting independent expenditures and electioneering communications.* (1) Corporations and labor organizations that make independent expenditures aggregating in excess of $250 with respect to a given election in a calendar year shall file reports as required by 11 CFR 104.4(a) and 11 CFR 109.10(b) through (e).

(2) Corporations and labor organizations that make electioneering communications aggregating in excess of $10,000 in a calendar year shall file the statements required by 11 CFR 104.20(b).

(c) *Solicitation; disclosure of use of contributions for political purposes.* Whenever a corporation or labor organization solicits donations that may be used for political purposes, the solicitation shall inform potential donors that their donations may be used for political purposes, such as supporting or opposing candidates.

(d) *Non-authorization notice.* Corporations or labor organizations making independent expenditures or electioneering communications shall comply with the requirements of 11 CFR 110.11.

(e) *Segregated bank account.* A corporation or labor organization may, but is not required to, establish a segregated bank account into which it deposits only funds donated or otherwise provided by individuals, as described in 11 CFR part 104, from which it makes disbursements for electioneering communications.

(f) *Activities prohibited by the Internal Revenue Code.* Nothing in this section shall be construed to authorize any organization exempt from taxation under 26 U.S.C. 501(a) to carry out any activity that it is prohibited from undertaking by the Internal Revenue Code, 26 U.S.C. 501 *et seq.*

§§ 114.14 and 114.15 [Removed].

6. Sections 114.14 and 114.15 are removed.

Dated: December 15, 2011.

On behalf of the Commission.

Cynthia L. Bauerly,

Chair, Federal Election Commission.

[FR Doc. 2011–32632 Filed 12–23–11; 8:45 am]

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FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052–AC54

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Liquidity and Funding

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, we or us) proposes to amend its liquidity regulation. The purpose of the proposed rule is to strengthen liquidity risk management at Farm Credit System (FCS or System) banks, improve the quality of assets in the liquidity reserve, and bolster the ability of System banks to fund their obligations and continue their operations during times of economic, financial, or market adversity.

DATES: Comments should be received on or before February 27, 2012.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency, commenters are encouraged to submit comments by email or through the FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA Web site: http://www.fca.gov.* Select ''Public Comments'' and follow the directions for ''Submitting a Comment.''
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Gary K. Van Meter, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of comments we receive at our office in McLean, Virginia, or from our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT: David J. Lewandrowski, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA, (703) 883–4498, TTY (703) 883–4434; or

Richard A. Katz, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of the proposed rule are to:

- Improve the capacity of FCS banks to pay their obligations and fund their operations by maintaining adequate liquidity to withstand various market disruptions and adverse financial or economic conditions;
- Strengthen liquidity management at all FCS banks;
- Enhance the marketability of assets that System banks hold in their liquidity reserve;
- Require that cash and highly liquid investments comprise the first 30 days of the 90-day liquidity reserve;
- Establish a supplemental liquidity buffer that a bank can draw upon during an emergency and that is sufficient to cover the bank's liquidity needs beyond the 90-day liquidity reserve; and
- Strengthen each bank's Contingency Funding Plan (CFP).

II. Background

The FCS is a nationwide network of borrower-owned financial cooperatives that lend to farmers, ranchers, aquatic producers and harvesters, agricultural cooperatives, rural utilities, farm-related service businesses, and rural homeowners. By law, FCS institutions are instrumentalities of the United States,[1] and Government-sponsored enterprises (GSEs).[2] According to section 1.1(a) of the Farm Credit Act of 1971, as amended, (Act), Congress established the System for the purpose

[1] *See* sections 1.3(a), 2.0(a), 2.10(a), 3.0, 4.25, and 8.1(a)(1) of the Act; 12 U.S.C. 2011(a), 2071(a), 2091(a), 2121, 2211, and 2279aa–1.

[2] *See* Public Law 101–73, sec. 1404(e)(1)(A), 103 Stat. 183, 552–53 (Aug. 9, 1989).

of furnishing ''sound, adequate, and constructive credit and closely related services'' to farmers, ranchers, aquatic producers and harvesters, their cooperatives, and certain farm-related businesses necessary to fund efficient agricultural operations in the United States.

In many respects, the FCS is different from other lenders. In contrast to commercial banks and most other financial institutions, the System lends mostly to agriculture and in rural areas. Unlike most other lenders, FCS banks and associations are cooperatives that are owned and controlled by their agricultural borrowers, and their common equity is not publicly traded.

The System funds its operations differently than most commercial lenders. FCS banks issue System-wide debt securities, which are the System's primary source for funding loans to agricultural producers, their cooperatives, and other eligible borrowers.[3] Although section 4.2(a) of the Act authorizes FCS banks to borrow from commercial banks and other lending institutions, lines of credit with non-System lenders are a negligible source of FCS funding. FCS banks and associations are not depository institutions.

The System's ability to finance agriculture, rural housing, and rural utilities in both good and bad economic times primarily depends on continuing access to the debt markets. During normal economic conditions, access to debt markets provides the System with funds it needs to operate. However, if access to the debt markets becomes impeded for any reason, Farm Credit banks must rely on assets to continue operations and pay maturing obligations. Liquidity is the ability to convert assets into cash quickly and at a price that is close to their book value.

In contrast to commercial banks, savings associations, and credit unions, the FCS does not have guaranteed access to a government provider of liquidity in an emergency.[4] If market access is impeded, FCS banks must rely on their liquidity reserves more heavily than other federally regulated lending institutions[5] because they do not have an assured lender of last resort.[6]

The liquidity of System banks has drawn more scrutiny from the FCA, credit rating agencies, and investors as economic and financial turmoil have roiled the markets with greater frequency and magnitude in recent years. As a result, the FCA proposes to amend its liquidity regulations so that FCS banks are better able to withstand uncertainty and instability in the financial markets.[7]

Liquidity is important for the financial system as a whole. Recent market disruptions have raised concerns among regulators, credit rating agencies, investors, and other market participants about the ability of financial institutions to maintain sufficient liquidity to meet their immediate funding needs during times of economic and financial turmoil.[8] The experience of these crises demonstrates why sound liquidity risk management is important to the safety and soundness of individual financial institutions and the financial system as a whole.

Regulatory agencies, in particular, have responded by formulating more comprehensive supervisory approaches toward liquidity risk management at financial institutions. For example, the Basel Committee on Banking Supervision (Basel Committee) issued in September 2008, the *Principles for Sound Liquidity Risk Management and Supervision,* which contains 17 principles detailing international supervisory guidance for sound liquidity risk management. In December, 2010, the Basel Committee issued *Basel III: International framework for liquidity risk measurement, standards, and monitoring* (Basel III Liquidity Framework). On March 22, 2010, the five Federal agencies that regulate depository institutions (Federal banking agencies)[9] published their Interagency Policy Statement on Funding and Liquidity Risk Management[10], which sets forth the supervisory expectations for depository institutions. The purpose of all these documents is to guide the supervisory efforts of Federal and international regulators of depository institutions into the future.

The FCA has considered the guidance of both the Basel Committee and the Federal banking agencies as part of its efforts to develop revised liquidity regulations. Many of the core concepts that the Basel Committee and the Federal banking agencies articulated about liquidity are appropriate for our proposed rule. However, the corporate, funding, and lending structures of the FCS are fundamentally different from those of depository institutions and, therefore, the FCA has modified and adapted the guidance of international regulators and Federal banking agencies concerning liquidity risk management so they are relevant to the System's unique circumstances, needs, and structure. The FCA also added other requirements that are tailored to the System's unique nature.

In addition to the guidance of the Basel Committee and other Federal regulators, both the FCA and the System have implemented various measures to improve liquidity management so FCS banks are in a better position to withstand financial and economic shocks. More specifically, System banks agreed to a common framework that stipulated the days of liquidity coverage that they would maintain, and

[3] Farm Credit banks (which are the four Farm Credit Banks and the Agricultural Credit Bank) issue and market System-wide debt securities through the Federal Farm Credit Banks Funding Corporation (Funding Corporation). The Funding Corporation, which is established pursuant to section 4.9 of the Act, is owned by all Farm Credit banks.

[4] The Federal Reserve Banks, the Federal Home Loan Banks, and National Credit Union Administration Central Liquidity Facility serve as a source of liquidity for commercial banks, savings associations, and credit unions both in ordinary times and during emergencies.

[5] Section 1101 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended section 13(3) of the Federal Reserve Act, 12 U.S.C. 343(3), to allow the Board of Governors of the Federal Reserve System, in consultation with the Secretary of the Treasury, to establish by regulation, policies and procedures that would govern emergency lending under a program or facility for the purpose of providing liquidity to the financial system. Under section 13(3) of the Federal Reserve Act, as amended, the Board of Governors of the Federal Reserve System must establish procedures that prohibit insolvent and failing entities from borrowing under the emergency program or facility. Pursuant to section 13(3) of the Federal Reserve Act, as amended, the Board of Governors of the Federal Reserve System, with the approval of the Secretary of the Treasury could authorize the Federal Reserve Banks to serve as an emergency source of liquidity for the FCS, but it is not obligated to do so. *See* Public Law 11–203, title XI, sec. 1101(a), 124 Stat. 2113 (Jul. 21, 2010).

[6] If market access is completely impeded, the Farm Credit Insurance Fund would also be available to ensure the payments of maturing insured debt obligations. *See* 12 U.S.C. 2277a–9(c)(1).

[7] The FCA has broad authority under various provisions of the Act to supervise and regulate liquidity management at FCS banks. Section 5.17(a) of the Act authorizes the FCA to: (1) Approve the issuance of FCS debt securities under section 4.2(c) and (d) of the Act; (2) establish standards regarding loan security requirements at FCS institutions, and regulate the borrowing, repayment, and transfer of funds between System institutions; (3) prescribe rules and regulations necessary or appropriate for carrying out the Act; and (4) exercise its statutory enforcement powers for the purpose of ensuring the safety and soundness of System institutions.

[8] For example, financial institutions collectively had difficulty maintaining sufficient short-term liquidity in the aftermath of the attacks on September 11, 2001, and again in September and October of 2008 after several large financial institutions collapsed. During these crises, the Federal Reserve injected additional liquidity into the financial system in the United States.

[9] The five agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the now-defunct Office of Thrift Supervision.

[10] *See* 75 FR 13656 (Mar. 22, 2010).

established the parameter for the quality of investments held in their liquidity reserves.

The FCA also took action to improve the ability of FCS banks to maintain sufficient liquidity to outlast episodes of market turbulence. On November 13, 2008, the FCA Board passed a Market Emergency Standby Resolution that waives the 90-day liquidity reserve requirement in § 615.5134 for a limited period of time if a crisis shuts, or severely restricts access to, debt markets. On May 5, 2009, the FCA issued a letter to FCS banks and the Funding Corporation that required the standing monthly collateral certification of all banks to include detailed information about days of liquidity in a specified format. This directive also required reporting of days of liquidity for each FCS bank and the FCS in aggregate, and detailed information about the type and remaining term of the investments from which those days of liquidity are derived.

FCS banks withstood recent economic and financial turmoil with their liquidity intact. Both the FCA and FCS have gained valuable experience and insights into the effects that sudden and severe stress have on liquidity at individual FCS institutions and the financial system as a whole. The FCA has identified several vulnerabilities that need to be addressed:

(1) Banks must ensure that the liquidity reserve is managed primarily as an emergency source of funding;

(2) Board policies need to provide clearer guidance to the asset-liability committee (ALCO) for monitoring, measuring, and managing liquidity risk;

(3) Risk analyses need to address how investments that the bank purchases and hold actually achieve its primary liquidity objective.

(4) Contingency funding plans need to provide orderly and effective procedures that would allow the bank to maintain sufficient liquidity to fund its operations during each phase of an emerging crisis;

(5) Discounts that FCS banks apply to the market values of assets in the liquidity reserve pursuant to current § 615.5134(c) need to be increased for certain types of investments;

(6) Counterparty risk needs to be reduced; and

(7) Liquidity policies need to take into account the continuing uncertainty as to whether the Federal Reserve System would provide a line of credit to FCS banks under section 13(3) of the Federal Reserve Act during a systemic liquidity crisis.

As our colleagues at international financial regulators and the Federal banking agencies are doing, we are drawing conclusions from the lessons that we learned during recent crises. As a result, we are revising our regulatory and supervisory approaches towards liquidity so that System institutions are in a better position to withstand whatever future crises may arise. As part of our ongoing efforts to limit the adverse effect of rapidly changing economic, financial, and market conditions on the liquidity of any FCS bank,[11] we now propose amendments to § 615.5134 that would redress these vulnerabilities.

III. Section-by Section Analysis of the Proposed Rule

A. Section 615.5134(a)—Liquidity Policy

The board of directors is responsible for ensuring that the bank always has readily available funds to continue operations and pay maturing obligations. The board discharges this responsibility by adopting policies and procedures for management to follow. A provision in the existing investment management regulation, § 615.5133(c)(3), requires FCS banks to address liquidity risk in their investment policies. However, the only affirmative requirement that § 615.5133(c)(3) imposes on FCS banks is that their investment policies must describe the liquidity characteristics of eligible investments that they hold to meet their liquidity needs and institutional objectives. Although the existing regulation gives FCS banks ample flexibility to formulate liquidity policies that meet their particular needs and objectives, the FCA is proposing to add a new paragraph (a) to § 615.5134 that for the first time, would require each FCS bank to address other specific issues in its liquidity policies. The banks have the option of either incorporating these new liquidity policies in their investment management policies required under § 615.5133, or in a separate document.

Proposed § 615.5134(a) addresses the board's responsibility for establishing and implementing liquidity policies for the bank. Proposed § 615.5134(a)(1) would require the board of directors of each FCS bank to adopt written liquidity policies that are consistent with the investment management policies that the board adopts under § 615.5133. The guidance that the FCA has provided to FCS banks about investment management policies and practices in § 615.5133 also applies to their liquidity policies.[12] The FCA expects the bank's liquidity policies to be consistent with, and fit into its overall investment strategy. Liquidity risk management is critically important to the long-term viability of the bank, and for this reason, it must be integrated into the bank's overall investment management and risk management processes.[13]

In discharging its responsibility, the board must establish appropriate strategies, policies, procedures, and limits that will enable the bank to monitor, measure, manage, and mitigate liquidity risk.[14] The board's policy should provide adequate guidance to management as it develops and implements strategies for managing liquidity risk. At a minimum, the policy should provide clear direction to management about limiting and controlling risk exposures, and keeping them within the board's risk tolerance levels. Additionally, these policies should establish parameters that enable management to determine whether particular investments belong in the liquidity reserve given their potential suitability for managing interest rate risks.

Proposed § 615.5134(a)(1) would also require the board to: (1) Review its liquidity policies at least once every year; (2) affirmatively validate the sufficiency of its liquidity policies; and (3) make any revisions it deems necessary. The purpose of this provision is to compel every FCS bank board to ascertain whether its policies enable the bank to respond promptly and effectively to events that may occur and threaten its liquidity. More specifically, the board should determine, as part of its review, whether its current policies enable the bank to consistently maintain sufficient liquidity for its ongoing funding needs, thus covering both

[11] The FCA has periodically amended its liquidity regulations over the past 18 years. The FCA originally adopted § 615.5134 in 1993, and subsequently amended it 1999 and 2005. *See* 58 FR 63056 (Nov. 30, 1993); 64 FR 28896 (May 28, 1999); 70 FR 51590 (Aug. 31, 2005). Originally, § 615.5134 required each FCS bank to maintain 15 days of liquidity, and to separately identify investments held for the purpose of meeting its liquidity reserve requirement. In 1999, the FCA repealed the provision requiring FCS banks to separately identify investments held for liquidity. In 2005, the FCA expanded the liquidity reserve requirement to 90 days, increased the limit on investments from 30 to 35 percent of total outstanding loans, and for the first time, required all FCS banks to develop CFPs for liquidity.

[12] The FCA recently proposed substantive amendments to § 615.5133. The preamble to the proposed rule discusses the FCA's expectations concerning proper investment practices at FCS banks and associations. *See* 76 FR 51289 (Aug. 18, 2011). The FCA incorporates by reference its guidance about proper investment management practices in the preamble to § 615.5133 into this preamble.

[13] *See* Interagency Policy Statement on Funding and Liquidity Risk Management, *supra* at 13661.

[14] *Id.*

expected and unexpected deviations in the availability of funds to meet cash demands.[15] A bank's viability often depends on effective liquidity risk management (that is fully integrated into its overall risk management strategies and processes), and the annual review should determine whether the policies achieve these objectives.[16] As part of its review, the bank board should consider whether it needs to adjust its liquidity policies based both on past experiences and on expected trends in the economy, agriculture, and financial markets.

The final provision of proposed § 615.5134(a)(1) would require the board to ensure that adequate and effective internal controls are in place, and that management complies with and carries out the bank's liquidity policies. Besides preventing losses caused by fraud or mismanagement, strong internal controls will enable FCS banks to respond more quickly and effectively when significant market turmoil arises and impedes access to funding.

The content of the board's liquidity policies are the focus of § 615.5134(a)(2). This regulatory provision identifies seven different issues that, at a minimum, a bank must address in its liquidity policies. The bank's policies should be comprehensive and commensurate with the complexity of the bank's operations and risk profile.

Proposed § 615.5134(a)(2)(i) would require policies to address the purpose and objectives of the liquidity reserve. This section of the bank's policies should distinguish the purpose and objectives of the liquidity reserve from the other operations and asset-liability functions of the bank, including interest rate management. The board's philosophy and position on the purpose and objectives of the liquidity reserve are of prime importance to effective liquidity management at the bank. In normal times, access to the debt markets provides the System with ready liquidity. However, when market access is impeded, the liquidity reserve should enable each FCS bank to maintain sufficient cash flows to pay its obligations, meet its collateral needs, and fund operations in a safe and sound manner.[17]

In normal times, FCS banks may pay more attention to the financial performance of the liquidity reserve rather than its role as an emergency source of funding. Incorrectly prioritizing these two objectives is problematic because the liquidity reserve should consist of cash and high-quality investments that can be quickly converted into cash at, or close to, par value. Cash-like investments pose little risk to the investor and, therefore, they usually do not earn the highest rate of return.

During the crisis in 2008, some FCS banks experienced losses that were larger than expected given the primary purpose of the liquidity reserve is an emergency source of funding. The FCA expects FCS banks to select investments for the liquidity reserve by their liquidity characteristics, and to match these assets closely to the bank's maturing liabilities. Choosing investments primarily for their ability to generate revenue is fundamentally incompatible with the System's GSE status.[18] Pursuant to proposed § 615.5134(a)(2)(i), the board should provide guidance to management about these issues when it addresses the objectives and purposes of the liquidity reserve in its policies.

Proposed § 615.5134(a)(2)(ii) would require the board's policies to address the diversification of the liquidity reserve portfolio. This diversification requirement would apply to both the liquidity reserve in proposed § 615.5134(e) and the supplemental liquidity buffer in proposed § 615.5134(f). Diversification by tenor, issuer, issuer type, size, asset type, and other factors can reduce certain investment risks. The bank's diversification policy should address the board's desired mix of cash and investments that the bank should hold for liquidity under a variety of scenarios, including both normal and adverse conditions. Within the spectrum of eligible qualified investments, proposed § 615.5134(a)(2)(ii) would require the policy to establish criteria for diversifying these assets based on issuers, maturity, and other factors that the bank deems relevant. In formulating these criteria, each bank should consider, in light of its needs and circumstances, how diversification would better enable the liquidity reserve and supplemental liquidity buffer to serve as its emergency or supplemental funding source when market access is curtailed or fully impeded. The FCA expects each bank to tailor its policy to its individual circumstances and financial conditions, and to revise it in response to changes in the business environment.

Proposed § 615.5134(a)(2)(iii) would require the board's policies to establish maturity limits and credit quality standards for investments that the bank is holding in its liquidity reserve. This aspect of the bank's policies would help management to target and match cash inflows from loans and investments to outflows that pay its maturing obligations. In devising its diversification strategy the bank should consider how it may need to rely on its liquidity portfolio as an available funding source in the short-, intermediate-, and long-term. As high-quality investments season and come closer to maturity, they become more liquid. In this context, a well-reasoned policy should guide management about deploying the strata of investments throughout the liquidity reserve and the supplemental liquidity buffer.

Proposed § 615.5134(a)(2)(iii) also focuses on the credit quality standards that board policies should establish for investments that the bank will hold to meet the liquidity reserve requirements of this regulation. Investments with short terms to maturity and high credit quality tend to be liquid and, therefore, are generally suitable for the bank's liquidity reserve and supplemental liquidity buffer. The preamble to § 615.5134(c) below, will discuss many of the attributes of high-quality liquidity investments in greater detail. The bank's liquidity policies should base credit quality standards for investments on factors and standards that the financial services industry uses to determine that the risk of default for both the asset and its issuer are negligible. In determining the credit quality of a security, FCS banks may consider the credit ratings issued by a Nationally Recognized Statistical Rating Organization (NRSRO), but may not rely solely or disproportionately on such ratings. System banks must document their credit quality determinations.

Under proposed § 615.5134(a)(2)(iv), the board's policies should cover the target amount of days of liquidity that the bank needs based on its business model and its risk profile. Estimating the target amount of days of liquidity that the bank will need to outlast various stress events is an effective tool for managing and mitigating liquidity risks. The FCA expects each FCS bank to include a prudent amount of unfunded commitments in its calculation of the target amount of days of liquidity it will need to survive a liquidity crisis in the markets.

Proposed § 615.5134(a)(2)(v) would require the bank's policies address the elements of the Contingency Funding Plan (CFP) in paragraph (h) of the

[15] *Id.*

[16] *Id.*

[17] *Id* at 13660.

[18] *See* 70 FR 51587 (Aug. 31, 2005); 58 FR 63039 (Nov, 30, 1993).

proposed rule. The purpose of the CFP is to address unexpected events or unusual business conditions that increase liquidity risk at FCS banks. Our existing regulation, § 615.5134(d), requires each FCS bank to have a formal written CFP to address liquidity shortfalls that may occur during market disruptions. The proposed rule would strengthen contingency funding planning at FCS banks. Under proposed § 615.5134(a)(2)(v), an effective CFP would cover at a minimum: (1) Strategies, policies, and procedures to manage a range of stress scenarios; (2) chains of communications and responsibility within the bank; and (3) implementation of the CFP during all phases of an adverse liquidity event. The preamble to proposed § 615.5134(h) will discuss the substantive requirements of the CFP and our expectations of FCS banks in greater detail.

The next provision of this regulation, proposed § 615.5134(a)(2)(vi), covers delegations of authority pertaining to the liquidity reserve in the bank's liquidity policies. As with all other aspects of the bank's operations, an explicit delegation of authority within a clearly defined chain of command strengthens the effectiveness and efficiency of an institution's operations and mitigates the risk of loss. The purpose of a delegation of authority is to clearly establish lines of authority and responsibility for managing the bank's liquidity risk.[19] The policies should clearly identify those individuals and committees that are responsible for making decisions involving liquidity risk and implementing risk mitigation strategies. Additionally, the policies should ensure that the ALCO has sufficiently broad representation across the operational functions of the bank that influence the bank's liquidity risk profile.

Under proposed § 615.5134(a)(2)(vii), the policies must contain reporting requirements, which at a minimum, would require management to report to the board at least once every quarter about compliance with the bank's liquidity policies, and to what extent the liquidity reserve portfolio has achieved the bank's liquidity objectives. This provision would also require management to report immediately to the board about any deviation from its liquidity policies, or any failure to meet the liquidity targets in the board's policies. The purpose of this provision is to ensure that an effective reporting process is in place, and management communicates accurate and timely information to the board about the level and sources of the bank's exposure to liquidity risk. These reports should enable the board to take prompt corrective action. The board should also consider these quarterly reports when it conducts its annual review of the bank's liquidity policies and decides whether to make any revisions to its policies, pursuant to proposed § 615.5134(a)(1).

B. Liquidity Reserve Requirement—§ 615.5134(b)

Proposed § 615.5134(b) is the cornerstone of the FCA's proposal because it articulates the core liquidity reserve requirements for FCS banks. Proposed § 615.5134(b) is not a departure from the liquidity reserve requirement in FCA's existing liquidity regulation. Instead, it builds upon and strengthens the concepts, principles, and requirements of existing § 615.5134. The purpose of proposed § 615.5134(b) is to better prepare FCS banks so they can withstand future liquidity crises. The FCA designed this proposal to address the vulnerabilities identified during recent crises. In developing proposed § 615.5134(b), we also considered the Basel Committee's recommendations for an international framework for liquidity, and the Federal banking agencies' Interagency Policy Statement on Funding and Liquidity Risk Management.

Both the existing and proposed regulations require each FCS bank to maintain a liquidity reserve sufficient to fund 90 days of the principal portion of maturing obligations and other borrowings of the bank at all times. However, in contrast to the existing regulation, proposed § 615.5134(b) and (e) would divide the bank's liquidity reserve into two levels. The first level of the liquidity reserve would fund a bank's maturing obligations and operations for the first 30 days from the onset of a significant stress event. Cash and certain instruments that mature within 3 years or less must comprise at least 15 days of the first level of the bank's liquidity reserve. The bank would draw on the second level of the reserve if market turmoil continued to persist for the subsequent 60 days after the initial 30 days thereby comprising together a stratified 90-day liquidity reserve.

Proposed § 615.5134(b) would require FCS banks, for the first time, to maintain a supplemental liquidity buffer pursuant to proposed § 615.5134(f). The new regulation would require each FCS bank to hold supplemental liquid assets (comprised of cash and other qualified assets listed in § 615.5140) in excess of the 90-day minimum liquidity reserve. The supplemental liquidity buffer would complement the 90-day liquidity reserve, and its purpose is to enable each FCS bank to continue operations if market access becomes impeded for a prolonged period of time in differing stress scenarios.

Proposed § 615.5134(b) would also require FCS banks to discount the assets in their liquidity reserve by the percentages specified in proposed § 615.5134(g). Although the existing regulation already requires FCS banks to discount assets in the liquidity reserve, the proposed rule would change some of the percentages to reflect the new two-tier structure of the liquidity reserve. The preamble to proposed § 615.5134(g) discusses in detail how we are revising the discounting requirements for the liquidity reserve.

The final sentence of proposed § 615.5134(b) states that the liquidity reserve must be comprised only of cash, including cash due from traded but not yet settled debt, and qualified eligible investments under § 615.5140 that are marketable under proposed § 615.5134(d). Proposed § 615.5134(b) is similar, but not identical, to existing § 615.5134(a). Both the existing and the proposed rule specify that the liquidity reserve must be comprised of cash, including cash due from traded but not yet settled debt, and investments listed in § 615.5140.

The final sentence of proposed § 615.5140(b), however, differs from existing § 615.5140(a) in two crucial respects. First, the proposed rule emphasizes that all investments held in liquidity reserves must be marketable. As the preamble to proposed § 615.5134(d) explains in greater detail below, the new regulation would establish specific regulatory benchmarks for determining whether particular investments are marketable. Marketability of a security is an essential attribute of its liquidity and helps determine its suitability for the liquidity reserve.

Second, the proposed rule would repeal the provisions in existing § 615.5134(a) that impose specific credit ratings on investments that FCS banks hold in their liquidity reserves. Under the existing regulation, money market instruments and floating and fixed rate debt securities held in the banks' liquidity reserve must maintain one of the two highest NSRSO credit ratings. In the event that an unrated instrument is in the liquidity reserve, the existing regulation requires the issuer to carry one of the two highest NRSRO ratings. Section 939A of the Dodd-Frank Wall

[19] *See* Interagency Policy Statement on Funding and Liquidity Risk, 75 FR 13656, 13661 (Mar. 22, 2010).

Street Reform and Consumer Protection Act[20] requires each Federal agency to: (1) Review any references or requirements in its regulations concerning the credit ratings of securities and money market instruments, and (2) replace references to, and requirements that regulated entities rely on such credit ratings with standards of creditworthiness that the agency determines is appropriate. In making this determination, every agency must seek to establish, to the extent feasible, uniform standards of creditworthiness. Our proposed liquidity regulation does not seek to replace the NRSRO rating requirements in existing § 615.5134(a) with a specific alternate standard of creditworthiness. Instead, we propose to require FCS banks to hold investments in the liquidity reserve that are unencumbered under proposed § 615.5134(c), and are marketable under proposed § 615.5134(d). In two other rulemakings, the FCA has invited the public to suggest options for replacing NRSRO credit ratings with other standards to determine the creditworthiness of financial instruments and their issuers.[21] We also solicit your comments and suggestions about the best approach for addressing standards of creditworthiness for investments held in the liquidity reserves of FCS banks.

C. Unencumbered and Marketable Investments in the Liquidity Reserve

Currently, existing § 615.5134(b) states that all investments that an FCS bank holds for the purpose of meeting its regulatory liquidity reserve requirement must be free of lien. Proposed § 615.5134(c) would expand upon this concept by requiring FCS banks to hold only unencumbered investments in their liquidity reserves. Under proposed § 615.5134(c), an asset is unencumbered if it is free of lien and is not explicitly or implicitly pledged to secure, collateralize, or enhance the credit of any transaction.[22] Additionally, proposed § 615.5134(c) also would prohibit any FCS bank from using an investment in the liquidity reserve as a hedge against interest rate risk pursuant to § 615.5135 if liquidation of that particular investment would expose the bank to a material risk of loss. Unencumbered investments are free of the impediments or restrictions that would otherwise curtail the bank's ability to liquidate them to pay its obligations when normal access to the debt market is obstructed. Proposed § 615.5134(c) strengthens the liquidity of FCS banks and improves the safety and soundness of the Farm Credit System as a whole.

Under both proposed § 615.5134(b) and (d), all eligible investments that FCS banks hold in their liquidity reserves must be marketable. Proposed § 615.5134(d) specifies the criteria and attributes that determine whether investments are marketable for the purposes of this regulation. Investments that meet all the marketability criteria in proposed § 615.5134(d) would be deemed to possess the characteristics of high-quality liquid assets that are suitable for the liquidity reserves at FCS banks. Proposed § 615.5134(d) is based on many of the concepts that the Basel Committee articulated in the Basel III Liquidity Framework.[23] The FCA tailored these concepts to the unique structure, needs, and circumstances of the FCS.

Proposed § 615.5134(d)(1) states that an investment is marketable if it can be easily and immediately converted into cash with little or no loss in value. Investments that exhibit this attribute are more likely to generate funds for the bank without incurring steep discounts even if they were liquidated in a ''fire sale'' during turmoil in the markets.[24] The liquidity of an asset depends on its performance during a stress event, and is measured by the amount that the holder can convert into cash within a certain timeframe.[25]

On a related note, proposed § 615.5134(d)(1) complements the definition of ''liquid investments'' in existing § 615.5131(e).[26] The existing regulation defines ''liquid investments'' as ''assets that can be promptly converted into cash without significant loss to the investor.''[27] We do not consider § 615.5131(e) to be redundant or inconsistent with proposed § 615.5134(d)(1). For this reason, we do not propose to repeal or amend § 615.5131(e). However, we invite your comments about whether the final rule should retain, relocate, or modify § 615.5131(e).

Another feature of a marketable investment is that it exhibits low credit and market risks, and we propose to incorporate this criterion into proposed § 615.5134(d)(2). Assets tend to be more liquid if they are less risky. An investment has low credit risk if its issuer has a strong credit standing, is not heavily indebted, and its assets are not heavily leveraged. Low duration[28] and low volatility indicate that an investment is more likely to be liquid because it has low market risk.[29]

Ease and certainty of valuation is also an attribute of marketable investments.[30] We are incorporating this concept into proposed § 615.5134(d)(3). The liquidity of an asset is likely to increase if market participants are able to agree on its valuation. An instrument has ease and certainty of valuation if the components of its pricing formulation are publicly available. The pricing of high-quality liquid assets are usually easy to calculate because they do not depend significantly on numerous assumptions. In practice, proposed § 615.5134(d)(3) effectively excludes structured investments from the liquidity reservesat FCS banks, although banks may hold such assets in their supplemental liquidity buffers if they are eligible investments under § 615.5140. The proposed rule, however, would allow FCS banks to hold mortgage-backed securities issued by the Government National Mortgage Association in their liquidity reserves because they are highly marketable securities backed by the full faith and credit of the United States.

Under proposed § 615.5134(d)(4), the final attribute of a marketable investment is that it can be easily bought or sold. Money market instruments generally qualify as marketable investments under this provision because they are easily bought and sold even though they are not traded on exchanges. Otherwise, marketable investments include assets listed on developed and recognized exchange markets. Listing on a public exchange enhances the transparency of the pricing mechanisms of investments, thus enhancing their marketability and liquidity.[31] Investments would also

[20] *See* Public Law 111–203, sec. 939A, 124 Stat. 1376, 1887 (Jul. 21, 2010).

[21] *See* 76 FR 51289, 51298 (Aug. 18, 2011) and 76 FR 53344 (Aug. 26, 2011). The first cite is to the proposed rule on investment management. The FCA is soliciting comments on how to replace NRSRO credit ratings for eligible investments. The second cite is to an Advance Notice of Proposed Rulemaking concerning the NRSRO credit ratings in our capital regulations.

[22] Basel Committee on Banking Supervision, *Basel III: International framework for liquidity risk measurement, standards, and monitoring,* (Dec. 2010) p. 6.

[23] *Id* at p. 5.

[24] *Id.*

[25] *Id.*

[26] The proposed rule on investment management would change the designation of § 615.5131(e) by omitting the paragraph designations of all definitions in the regulation.

[27] Existing § 615.5131(e) also states, ''In the money market, a security is liquid if the spread between its bid and ask price is narrow and a reasonable amount can be sold at those prices.''

[28] Duration measures the price sensitivity of a fixed income security to interest rate changes.

[29] *See* Basel III Liquidity Framework *supra.* at p. 5.

[30] *Id.*

[31] *Id.*

comply with the requirement of proposed § 615.5134(d)(4) if investors can sell or convert them into cash through repurchase (repo) agreements in active and sizeable markets. For the purpose of this proposed rule, markets are active and sizeable if they have a large number of market participants, high-trading volume, and investors can sell or repo the asset at any time.[32] Another feature of an active and sizeable market is that it historically has market breadth and market depth.[33] Proposed § 615.5134(d)(4) would exclude private placements from the banks' liquidity reserves, but not the supplemental liquidity buffer.

D. Composition of the Liquidity Reserve

Proposed § 615.5134(e) governs the composition of the liquidity reserve. This provision would require each FCS bank to continuously hold cash and the investments identified in the table to proposed § 615.5134(e) to meet the 90-day minimum liquidity reserve requirement of this regulation. Under this proposal, each bank would also apply the discounts in proposed § 615.5134(g) to all cash and investments that it holds in its liquidity reserve.

Although the existing regulation already requires every FCS bank to maintain a sufficient stock of liquid assets to fund its maturing obligations and other borrowings for at least 90 days, the proposed rule would divide the liquidity reserve into two levels. The first level of the liquidity reserve would provide sufficient liquidity for the bank to pay its obligations and continue operations for 30 days, whereas the second level of the reserve would cover the following 60 days. Taken together, the two levels of the liquidity reserve should provide each FCS bank with adequate liquidity for 90 days.

Proposed § 615.5134(e) would require FCS banks to hold a *minimum* of 90 days of cash and liquid investments in their liquidity reserves. In other words, FCS banks may need to exceed 90daysbased on their individual liquidity needs. The FCA expects each bank, in accordance with its policies and procedures, to determine the appropriate level, size, and quality of its liquidity reserve based on its liquidity risk profile. Determining and maintaining an adequate level of liquidity depends on each bank's ability to meet both expected and unexpected cash flows and collateral needs without adversely affecting its daily operations and financial condition.[34] Additionally, the size and level of the liquidity reserve should correlate to the bank's ability to fund its obligations at reasonable cost.[35] Each FCS bank must document and be able to demonstrate to FCA examiners how its liquidity reserve mitigates the liquidity risk posed by the bank's business mix, balance sheet structure, cash flows, and on- and off-balance sheet obligations.[36] Matching the size, level, and composition of the liquidity reserve to obligations that are maturing in a prescribed number of days is a sound banking practice, and is consistent with GSE status.

The proposed rule would require each FCS bank to maintain sufficient quantity of highly liquid assets in the first level of its liquidity reserve so it could continue normal operations for 30 days if a national security emergency, a natural disaster, or intense economic or financial turmoil impedes System access to the markets. As the first item in the left column of the table states, investments in the first level of the liquidity reserve would be available for the bank to sequentially apply to pay obligations that mature starting on day 1 through day 30.

Under the second provision in the left-hand column of the table, cash and instruments with a final maturity of 3 years or less must comprise at least 15 days of the first level of the liquidity reserve. As a result, the proposed rule would mandate that each bank have enough cash and short-term, highly liquid assets on hand so it could pay its obligations and fund its operations for 15 days if the debt markets were closed, or the System's cost of funding became uneconomical. FCS banks would draw first on this 15-day sublevel in the event of significant stress event.

The right side of the table identifies the assets that proposed § 615.5134(e) would require FCS banks to hold in Level 1 of their liquidity reserves. Again, all of these assets are highly liquid because they are cash, or investments that are high quality, close to their maturity, and marketable. All of the assets that banks hold in their liquidity reserve would be subject to the discounts specified in proposed § 615.5134(g).

Under the proposed rule, FCS banks are authorized to hold five classes of assets in the first level of their liquidity reserve. These assets are:

- Cash—

(1) Cash balances on hand,

(2) Cash due from traded but not yet settled debt, and

(3) Insured deposits that FCS banks hold at federally insured depository institutions in the United States;

- United States Treasury securities—

Each FCS bank must select Treasury securities that have final maturities and other characteristics that best enables it to fund operations if market access becomes obstructed;

- Other *marketable* obligations explicitly backed by the full faith and credit of the United States [37]
- Government-sponsored agency senior debt securities that mature within 60 days (debt obligations of the FCS are excluded);[38]
- Diversified investment funds that are comprised exclusively of Level 1 instruments.

As discussed earlier, the second level of the liquidity reserve would provide FCS banks with sufficient liquidity to fund their obligations and continue normal operations starting on day 31 through day 90. Under proposed § 615.5134(e), FCS banks would use the assets in Level 2 during a prolonged stress event to fund obligations that mature during the subsequent 60 days of the 90-day liquidity reserve.

The proposed rule would authorize FCS banks to hold the five following classes of assets in the second level of their liquidity reserves:

- Additional amounts of Level 1 instruments;
- Government-sponsored agency senior debt securities *with maturities that exceed 60 days;*[39]

[32] *Id.* Many securities that System banks hold in their liquidity reserves are traded in high volume. Nevertheless, the FCA cautions that the potential volume that an FCS bank trades or holds in a particular security should not constitute a significant percentage of the overall trading volume in that security.

[33] *Id.* Market breadth refers to the price impact per unit of liquidity, whereas market depth refers to units of the asset that can be traded for a given price impact.

[34] *See* Interagency Policy Statement on Funding and Liquidity Risk Management, *supra*.at 13660.

[35] *Id.*

[36] *Id.*

[37] Obligations that are backed by the full faith credit of the United States are not eligible for the liquidity reserve if they are not marketable under proposed § 615.5134(d).

[38] A Government-sponsored agency means as an agency, instrumentality, or corporation chartered or established to serve public purposes specified by the United States Congress but whose obligations *are not* explicitly insured or guaranteed by the full faith and credit of the United States Government. The FCA proposed to add this definition to § 615.5132 on August 18, 2011. *See* 76 FR 51289 (Aug. 18, 2011). This category would include the Federal Home Loan Banks, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), and the Tennessee Valley Authority. Although Fannie Mae and Freddie Mac are currently in conservatorship, their obligations are not explicitly backed by the full faith and credit of the United States.

[39] Once the Government-sponsored agency senior debt securities in Level 2 come within 60 days to maturity, the bank should move them to Level 1 of the liquidity reserve so they can cover maturing obligations.

• Government-sponsored agency mortgage-backed securities;

• Money market instruments that mature in 90 days; and

• Diversified investment funds that are comprised exclusively of Levels 1 and 2 instruments.

Unfunded commitments are another issue that raises concerns for the FCA. FCS banks or their affiliated associations often have outstanding lines of credit to borrowers who may draw funds to meet their seasonal business needs. FCS banks and associations can be legally obligated to fund these commitments. A sudden surge in borrower demand for funds under these lines may impair the bank's liquidity at a time when market access is becoming impeded. For this reason, it is important that FCS banks adequately account for unfunded commitments and other contingencies, including those that are off balance sheet, when they calculate the amount and quality of liquid assets they need in their liquidity reserve to fund all maturing and contingent obligations during a particular time period. Each FCS bank has its own unique circumstances and risk profile and, therefore, exposure to unfunded commitments and other contingent obligations varies within the FCS.

Unfunded commitments and other material contingent obligations, including those off balance sheet, potentially expose both FCS and other financial institutions to significant safety and soundness risks. Accordingly, contingent outflows raise substantial regulatory concerns for the FCA and other financial regulators.[40] Proposed § 615.5134(e) does not specifically require FCS banks to maintain sufficient assets in the liquidity reserve to cover unfunded commitments and other contingent obligations. However, the FCA is contemplating whether to add a specific provision to the final regulation that would require the liquidity reserve to adequately cover unfunded commitments and other contingent obligations. Requiring FCS banks to hold sufficient liquidity to cover these contingencies could mitigate risks that pose a threat to the liquidity, solvency, and ultimate viability of FCS banks. However, such a requirement could also impose significant opportunity costs on FCS banks in that they would be compelled to provide for these contingencies with cash and short-term liquid investments.

The FCA considers the guidance of the Federal banking agencies and the Basel III Liquidity Framework in developing this proposed rule on liquidity, and evaluates whether it is appropriate for System banks. Specifically, the Basel Committee currently suggests that regulated entities account for unfunded commitments and other contingent obligations in their liquidity reserve calculations. We are evaluating to what extent we should incorporate the approach of the Basel III Liquidity Framework into our regulation.

For this reason, we solicit your responses to the following questions:

• Should the final rule explicitly require the liquidity reserve to cover unfunded commitments and other contingent obligations? In your opinion, what would be the advantages and disadvantages of adding this requirement to § 615.5134(e)?

• Should the FCA consider more stringent liquidity reserve requirements based on size and complexity of different FCS banks, or should the liquidity reserve requirements remain the same for all System banks?

• What cash inflows and outflows identified in the Basel III Liquidity Framework are relevant to System banks? For those that are relevant, how should we incorporate them into our regulation?

• Should we incorporate the Basel III Liquidity Framework stress parameters in the liquidity reserve requirement for System banks? If so, which ones? For those, please indicate what percentage of the unfunded commitments and other contingent obligations the FCS bank should cover in its liquidity reserve.

• How should an association's direct loan under the General Financing Agreement and its accompanying contingent commitments factor into the funding bank's liquidity reserve requirement?

Please provide any information or data concerning unfunded commitments and other contingent obligations that support your answers to the above questions.

E. Supplemental Liquidity Buffer

Proposed § 615.5134(f) would introduce a new concept into the FCA's liquidity regulation by requiring all FCS banks to establish and maintain a supplemental liquidity buffer that would provide a longer term, stable source of funding beyond the 90-day minimum liquidity reserve. The supplemental liquidity buffer would complement the 90-day minimum liquidity reserve. Whereas the primary purpose of the 90-day minimum liquidity reserve is to furnish sufficient short-term funding to outlast an immediate crisis, the supplemental liquidity buffer would enable FCS banks to manage and mitigate their liquidity risk over a longer term horizon. Besides providing FCS banks with longer term and stable source of funding, each bank would be able to draw on the supplemental liquidity buffer if a heavy demand for funds strains its 90-day minimum liquidity reserve during a significant stress event. The supplemental liquidity buffer is an additional stock of assets that would provide stable, longer term funding of the bank's operations beyond the first 90 days.

The proposed rule does not specify the length of time that the supplemental liquidity buffer should cover. The Basel Committee on Banking Supervision recommends that a supplemental reserve should provide depository institutions and related banking organizations stable, long-term funding over a 1-year time horizon. We invite your comments about whether our final rule should establish a specific time horizon for the supplemental liquidity buffer at FCS banks. If you believe that we should establish a specific timeframe for the supplemental liquidity buffer, please tell us what you think it should be, and why. If you oppose a specific regulatory time horizon for the supplemental liquidity buffer, please explain your reasoning. We are also interested in hearing your views about how the similarities and differences between FCS banks and financial institutions under the supervision of other Federal and international regulators influence the answers to our questions about potential time horizons for the supplemental liquidity buffers at FCS banks.

The first sentence of proposed § 615.5134(f) would require each Farm Credit bank to hold supplemental liquid assets in excess of the 90-day minimum liquidity reserve. Again, the supplemental liquidity buffer consists of the amount of stable longer term funding that a FCS bank has available, and it should match the amount of stable funding that the bank needs to operate during a prolonged period of time. For the purposes of proposed § 615.5134(f), stable funding means that the instruments in the supplemental liquidity buffer are expected to furnish the bank with a reliable source of funds over a longer term time horizon under conditions of extended stress. The *amount and composition* of the supplemental liquidity buffer at a

[40] *See* Basel III Liquidity Framework *supra.* at p. 21–22. The Basel Committee on Banking Supervision focused on unfunded commitments throughout Basel III.

particular bank ultimately depends on a number of different factors pertaining to its operations, including the funding of its assets and liabilities, off-balance sheet items, and contingent exposure, such as unfunded commitments.

According to the second sentence of proposed § 615.5134(f), the supplemental liquidity buffer must be comprised of cash and qualified eligible investments listed in § 615.5140 of this part. Thus, the proposed rule would allow FCS banks to hold qualified eligible investments (listed in § 615.5140) in their supplemental liquidity buffer that they could not hold in their 90-day liquidity reserve. However, the FCA expects each FCS bank to calibrate the quality and quantity of assets that it selects for the supplemental liquidity buffer to the amount of funding it will need to outlast significant stress scenarios. Each bank should configure its supplemental liquidity buffer so it realistically corresponds to the demands of its liquidity risk profile.

The third sentence of proposed § 615.5134(f) states that each FCS bank must be able to liquidate any qualified investment in its supplemental liquidity buffer within the timeframe established in the bank's liquidity policies at no less than 80 percent of its book value. The fourth sentence of proposed § 615.5134(f) would require an FCS bank to remove from its supplemental liquidity buffer any investment that has, at any time, a market value that is less than 80 percent of its book value. These two provisions are designed to limit loss that the bank might incur on qualified investments that it holds in its supplemental liquidity buffer. From the FCA's perspective, the liquid and marketable characteristics of qualified investments in the supplemental liquidity buffer would be called into question if their market value falls 20 percent or more below their book value. In all probability, an FCS bank could no longer convert such assets easily or immediately into cash at little or no loss in value. Additionally, a qualified investment that has lost 20 percent or more of its book value no longer exhibits low credit or market risks. The proposed rule would instill strong discipline and control by requiring FCS banks to remove from their supplemental liquidity buffer an investment that has depreciated 20 percent or more off its book value. We invite your comments on the maximum percentage that the final rule should allow the market value of an asset to depreciate from its book value before the bank must remove it from the supplemental liquidity buffer.

Finally, proposed § 615.5134(f) would require the amount that each bank holds in its supplemental liquidity buffer, at a minimum, to: (1)Adhere to the requirements of the board's liquidity policies; (2) provide excess liquidity beyond the days covered by the 90-day minimum liquidity reserve; and (3) enable the bank to meet the needs of its CFP. The supplemental liquidity buffer is a stable longer term funding source that enables each bank, based on its business and risk profiles, to match the inflow and outflow of funds from its assets and liabilities.

F. Discounts

Our existing liquidity regulation requires FCS banks to discount assets in their liquidity reserves. Existing § 615.5134(c) specifies the discount percentage that applies to particular classes of assets. We propose to revise the provision in the rule pertaining to discounts so they are more appropriate to the new regulatory structure, which splits the liquidity reserve into two levels, establishes a supplemental liquidity buffer, and greatly strengthens contingency funding planning at FCS banks.

Discounts approximate the cost of liquidating investments over a short period of time during adverse situations. The system of discounting assets is designed to accurately reflect true market conditions. For example, the proposed rule would assign only a minimal discount to investments that are less sensitive to interest rate fluctuations because they are exposed to less price risk. Conversely, the discount for long-term fixed rate instruments is higher because they expose FCS banks to greater market risk.

Accordingly, the FCA proposes the following discounts for the classes of assets that FCS banks hold in their liquidity reserves and supplemental liquidity buffers:

Instrument	Multiply by
Cash and overnight investments.	100 percent.
United States Treasuries.	97 percent of market value.
All other Level 1 instruments including such instruments held in Level 2 to fund obligations maturing on day 31 through day 90.	95 percent of market value.
All Level 2 instruments.	93 percent of market value.
All other qualified investments held for meeting the bank's liquidity policy and contingency plans unless they merit the discount for Level 1 or Level 2 instruments.	85 percent of market value.

G. Contingency Funding Plan

Contingency funding planning is an essential and crucial element of effective liquidity risk management at all financial institutions. The CFP is a blueprint that helps financial institutions respond to contingent liquidity events, which are unexpected events or conditions that may increase liquidity risk.[41] Contingent liquidity events may arise from external factors that adversely affect the financial system, or they may be specific to the conditions at an individual institution.[42]

Since 2005, our regulation has required all FCS banks to have a contingency funding plan that addresses liquidity shortfalls during market disruptions. Existing § 615.5134(d) also requires the board of directors of each FCS bank to review the contingency funding plan every year and make any necessary changes. The crisis in 2008 revealed actual and potential vulnerabilities in contingency planning at FCS banks. As a result, the FCA proposes to strengthen contingency planning at FCS banks by amending the applicable provisions of our liquidity regulation. These amendments should reinforce the wherewithal of FCS banks to withstand future crises.

The first sentence of proposed § 615.5134(h) would require each FCS bank to have a CFP to ensure sources of liquidity are sufficient to fund normal operations under a variety of stress events. Whereas existing § 615.5134(d) only requires the CFP to address liquidity shortfalls caused by market disruptions, proposed § 615.5134(h) would require the CFP to explicitly cover other stress events that threaten the bank's liquidity. In addition to market disruptions, the proposed rule would require the CFP to specifically address:

(1) Rapid increases in loan demand;

(2) Unexpected draws on unfunded commitments;

(3) Difficulties in renewing or replacing funding with desired terms and structures;

[41] *See* Interagency Policy Statement on Funding and Liquidity Risk Management, *supra*. at 13664.

[42] *Id.*

(4) Pledging collateral with counterparties; and

(5) Reduced market access.

Each of these events could weaken the bank's liquidity and impair its access to funding during a crisis.

The second sentence of proposed § 615.5134(h) would require each Farm Credit bank to maintain an adequate level of unencumbered and marketable assets in its liquidity reserve that could be converted into cash to meet its net liquidity needs based on estimated cash inflows and outflows for a 30-day time horizon under an acute stress scenario. As an integral and critical part of contingency planning, each FCS bank should quantitatively project and evaluate its expected funding needs and its available funding sources during likely stress scenarios. More specifically, each FCS bank must realistically assess and analyze its cash inflows, cash outflows, and its access to funding at different phases of a potential, but acute liquidity stress event that continues for 30 days. In addition to a realistic assessment of potential cash-flow mismatches that may occur during different intervals of various stress events, effective contingency planning also requires the bank to evaluate whether it has a sufficient amount of marketable assets that it can convert into cash and continue operations for the duration of any potential crisis.

The next provisions of proposed § 615.5134(h) would require the CFP to address four specific areas that are essential to the bank's efforts to mitigate its liquidity risk. Taken together, these four provisions require each bank to have an emergency preparedness plan in place so it can effectively cope with a full range of contingencies that could endanger its liquidity, solvency, and viability.

First, proposed § 615.5134(h)(1) would require each FCS bank to customize the CFP to its individual financial condition and liquidity risk profile and the board's liquidity risk tolerance policy. The CFP is part of the bank's overall liquidity policies, and as such, it should be commensurate with the complexity, risk profile, and scope of the bank's operations.[43] The CFP should cover a number of plausible scenarios that could adversely affect the bank's liquidity. In this context, the CFP should address contingencies that are both:

- Highly probable, but would have a low impact on the bank's liquidity; and
- Less likely to occur but would have a significant impact on the bank's liquidity.[44]

The CFP should identify stress events that could have a significant impact on the bank's liquidity based on its individual circumstances, such as its balance sheet structure, business model, and organizational configuration.[45] The CFP should also assess how different stress events are likely to affect the bank's liquidity.

Under proposed § 615.5134(h)(2), the CFP must identify funding alternatives that the Farm Credit bank can implement whenever its access to funding is impeded. For the purposes of proposed § 615.5134(h)(2), funding alternatives include, at a minimum, arrangements for pledging collateral to secure funding and possible initiatives to raise additional capital. Each bank must be able to readily access its contingent funding sources during a stress event. The FCA expects every FCS bank to take appropriate measures, including advance planning and periodic testing, so it always has reliable funding alternatives available when normal market access becomes impeded.

Pursuant to proposed § 615.5134(h)(3), the CFP must require the bank to conduct periodic stress testing in order to analyze the possible impacts on the bank's cash inflows and outflows, liquidity position, profitability and solvency under a variety of stress scenarios. Periodic stress testing of its anticipated cash flows would enable the bank to estimate future funding surpluses and shortfalls under several different stress scenarios, which in turn, affects the bank's ability to fund its assets, liabilities, and operations throughout adverse situations.

Proposed § 615.5134(h)(4) would require each bank's CFP to establish a process for managing events that imperil its liquidity. This includes assigning appropriate personnel and having executable action plans to implement the CFP. Under this provision, the CFP would establish a framework for the bank to monitor contingent events that potentially threaten its liquidity. This framework should contain mechanisms, such as early-warning indicators and event triggers,[46] which are tailored to the bank's liquidity profile. These early-warning systems help the, bank to identify potential adverse liquidity events that are looming on the horizon. This enables the bank to position itself and be ready for the various phases of the stress event as it evolves.

The second prong of proposed § 615.5134(h)(4) involves internal controls and management of contingency events. The CFP should establish a reliable crisis management team. Frequent communication and reporting among team members, management, and the board optimize the effectiveness of the CFP during a liquidity crisis by coordinating the bank's response and diminishing liquidity risks to the bank's operations.[47] The CFP should also identify the processes and procedures that the bank will use to manage any evolving crisis.

The final sentence of proposed § 615.5134(h) would require the board of directors of each FCS bank to review and approve the CFP at least once every year, and incorporate adjustments to reflect changes in the bank's risk profile and market conditions. Internal conditions and the external environment in which the FCS operates may shift, either gradually or suddenly, thus affecting the liquidity risk profile of each bank. The FCA expects each FCS bank to constantly monitor fluctuations in its operating environment and react effectively so it can quickly stem potential damage to its liquidity, solvency, and viability. Reviewing the CFP at least once every 12 months and more frequently as conditions warrant, is a necessary tool for FCS banks to manage and mitigate its liquidity risk.

H. The FCA's Reservation of Authority

In addition to capital, asset quality, management, earnings, and interest rate sensitivity, liquidity is a prime barometer of the financial health, vitality, and viability of financial institutions. Illiquidity indicates that a financial institution is in an unsafe and unsound condition. More than the other indicia of safety and soundness, liquidity is often, but not always, determined by external factors that are

[43] *Id.* at 13665.

[44] *Id.*

[45] *Id.*

[46] Early warning signals and event triggers encompass events that are both global and bank specific. Examples of global warning signals and event triggers include: (1) Concerns over the credit quality of particular classes of assets widely held by financial institutions; (2) widening spreads between different types of securities, or derivatives; (3) macro-economic factors adversely affecting agriculture; and (4) debt market stagnation and constrictions. Warning signals and event triggers that are specific to individual FCS banks include: (1) Draws on unfunded commitments or letters of credit; (2) a rapid and substantial increase in loan demand; (3) actual and projected increases in collateral pledged; and (4) unrealized losses in its liquidity reserve. Events such as reduced market access and the downgrading of credit ratings could be either a global or bank-specific signal or trigger.

[47] *See* Interagency Policy Statement on Funding and Liquidity Risk Management, *supra*. at 13665.

beyond the control of FCS banks and other financial institutions. For example, a national defense emergency (such as terrorist attacks), a catastrophic natural disaster, or a macroeconomic or financial crisis could suddenly and without warning close or impede access to the debt markets that FCS banks depend on to fund their normal operations.

Congress designated the FCA as the Federal agency that is responsible for ensuring that all FCS institutions: (1) Comply with all applicable laws; (2) fulfill their public policy mission of extending credit to agriculture, rural utilities, and rural homeowners; and (3) operate safely and soundly. As a result, the Act grants the FCA comprehensive examination, enforcement, and regulatory powers to carry out these duties. The System's liquidity could come under sudden strain when economic uncertainty sparks financial turmoil and, therefore, the FCA must be able to act decisively so all FCS banks meet their obligations and continue operations until the crisis subsides. The FCA has various tools at its disposal to lessen the damage that a liquidity crisis could inflict on the FCS. These tools include exercising its enforcement powers under subtitle C of title V of the Act, and invoking its authority under § 615.5136 to increase the amount of liquid investments that FCS banks may hold in their liquidity reserve during an emergency.

The FCA now proposes to strengthen its supervisory and regulatory oversight of liquidity management at FCS banks. Under proposed § 615.5134(i), the FCA expressly reserves its right to require Farm Credit banks, either individually or jointly, to adjust their treatment of instruments (assets) in their liquidity reserves so they have liquidity that is sufficient and commensurate for the risks they face. This reservation of authority would enable the FCA to respond to adverse financial, economic, or market conditions by requiring any, some, or all Farm Credit bank(s) to take certain prescribed actions to protect FCS liquidity.

More specifically, the FCA reserves the authority under proposed § 615.5134(i) to require one or more FCS bank(s) to:

(1) Apply a greater discount to any individual security or any class of securities;

(2) Shift individual or multiple securities from one level of the liquidity reserve to another, or between one of the levels of the liquidity reserve and the supplemental liquidity buffer based on the performance of such asset(s), or based on financial, economic, or market conditions affecting the liquidity and solvency of the bank;

(3) Spread out or otherwise change concentrations in the allocation of securities in any level of the bank's liquidity reserve and its supplemental liquidity buffer;

(4) Perform additional stress tests using other or different stress criteria or scenarios;

(5) Hold additional liquid assets to cover unfunded commitments and other contingent outflows; or

(6) Take any other action that the Farm Credit Administration deems necessary to ensure that the bank has sufficient liquidity to meet its financial obligations as they fall due.

We invite your comments about any specific scenario that you think we should include in our reservation of authority. We also ask whether you think that there are other actions that the FCA could or should take during a significant stress event so it can act rapidly and decisively to staunch or prevent deterioration in the liquidity position of FCS banks on an individual or collective basis.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, part 615 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. The authority citation for part 615 is revised to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.3A, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.3, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2154a, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–3, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608; sec. 939A of Pub. L. 111–203, 124 Stat 1326, 1887.

2. Revise § 615.5134 to read as follows:

§ 615.5134 Liquidity reserve.

(a) *Liquidity policy.*(1) *Board responsibility.* The board of each Farm Credit bank must adopt a written liquidity policy. The liquidity policy must be compatible with the investment management policies that the bank's board adopts pursuant to § 615.5133 of this part. At least once every year, the bank's board must review its liquidity policy, affirmatively validate the sufficiency of its liquidity policy, and make any revisions it deems necessary. The board of each Farm Credit bank must ensure that adequate internal controls are in place so that management complies with and carries out this liquidity policy.

(2) *Policy content.* At a minimum, the liquidity policy of each Farm Credit bank must address:

(i) The purpose and objectives of the liquidity reserve;

(ii) Diversification requirements for the liquidity reserve portfolio;

(iii) Maturity limits and credit quality standards for investments that the bank is holding to meet the minimum liquidity reserve requirements of paragraphs (b) and (e) of this section;

(iv) The target amount of days of liquidity that the bank needs based on its business model and risk profile;

(v) The Contingency Funding Plan (CFP) required by paragraph (h) of this section;

(vi) Delegations of authority pertaining to the liquidity reserve; and

(vii) Reporting requirements, which at a minimum must require management to report to the board at least once every quarter about compliance with the bank's liquidity policy and the performance of the liquidity reserve portfolio. Management must report any deviation from the bank's liquidity policy, or failure to meet the board's liquidity targets immediately to the board.

(b) *Liquidity reserve requirement.* Each Farm Credit bank must maintain a liquidity reserve, in accordance with paragraph (e) of this section, sufficient to fund at least 90 days of the principal portion of maturing obligations and other borrowings of the bank at all times. Each Farm Credit bank must also maintain a supplemental liquidity buffer in accordance with paragraph (f) of this section. Each Farm Credit bank must discount the liquid assets in its

liquidity reserve and its supplemental liquidity buffer in accordance with paragraph (g) of this section. The liquidity reserve must be comprised only of cash, including cash due from traded but not yet settled debt, and qualified eligible investments under § 615.5140 of this part that are unencumbered and marketable under paragraphs (c) and (d) of this section, respectively.

(c) *Unencumbered.* All investments that a Farm Credit bank holds in its liquidity reserve in accordance with this section must be unencumbered. For the purpose of this section, an investment is unencumbered if it is free of lien, and it is not explicitly or implicitly pledged to secure, collateralize, or enhance the credit of any transaction. Additionally, an unencumbered investment held in the liquidity reserve cannot be used as a hedge against interest rate risk if liquidation of that particular investment would expose the bank to a material risk of loss.

(d) *Marketable.* All investments that a Farm Credit bank holds in its liquidity reserve in accordance with this section must be marketable. For the purposes of this section, an investment is marketable if it:

(1) Can be easily and immediately converted into cash with little or no loss in value;

(2) Exhibits low credit and market risks;

(3) Has ease and certainty of valuation; and

(4) Except for money market instruments, is listed on a developed and recognized exchange market, and can be sold or converted to cash through repurchase agreements in active and sizable markets.

(e) *Composition of liquidity reserve.* Each Farm Credit bank must continuously hold cash and the investments in the table below to meet the 90-day minimum liquidity reserve requirement in paragraph (b) of this section. A Farm Credit bank must apply the discounts in paragraph (g) of this section to all cash and investments in its liquidity reserve:

Level 1 Instruments: Each Farm Credit bank must sequentially apply Level 1 instruments to fund obligations that mature starting on day 1 through day 30. Cash and instruments with a final remaining maturity of 3 years or less must comprise at least 15 days of the liquidity reserve at Level 1.	• Cash; • Treasury securities; • Other marketable obligations that are explicitly backed by the full faith and credit of the United States; • Mortgage-backed securities issued by the Government National Mortgage Association; • Government-sponsored Agency senior debt securities that mature within 60 days, excluding senior debt securities of the Farm Credit System; and • Diversified investment Funds that are comprised exclusively of Level 1 instruments.
Level 2 Instruments: Each Farm Credit bank must sequentially apply Level 2 instruments to fund obligations that mature starting on day 31 through day 90.	• Additional amounts of Level 1 instruments; • Government-sponsored Agency senior debt securities with maturities that exceed 60 days, excluding senior debt securities of the Farm Credit System; • Government-sponsored Agency mortgage-backed securities; • Money market instruments maturing within 90 days; and • Diversified Investment Funds that are comprised exclusively of Levels 1 and 2 instruments.

(f) *Supplemental liquidity buffer.* Each Farm Credit bank must hold supplemental liquid assets in excess of the 90-day minimum liquidity reserve. The supplemental liquidity buffer must be comprised of cash and qualified eligible investments listed in § 615.5140 of this part. A Farm Credit bank must be able to liquidate any qualified eligible investment in its supplemental liquidity buffer within the liquidity policy timeframe established in the bank's liquidity policy at no less than 80 percent of its book value. A Farm Credit bank must remove from its supplemental liquidity buffer any investment that has, at any time, a market value that is less than 80 percent of its book value. The amount of supplemental liquidity that each Farm Credit bank holds, at minimum, must meet the requirements of its board's liquidity policy, provide excess liquidity beyond the days covered by the liquidity reserve, and satisfy the applicable portions of the bank's CFP in accordance with paragraph (h) of this section.

(g) *Discounts.* Each Farm Credit bank must discount the liquid assets in its liquidity reserve under paragraph (d) of this section and in its supplemental liquidity buffer under paragraph (e) of this section as follows:

(1) Multiply cash and overnight investments by 100 percent.

(2) Multiply Treasury securities by 97 percent of the market value.

(3) Multiply all other Level 1 instruments by 95 percent of their market value, even if the bank holds them in Level 2 to fund obligations maturing starting on day 31 through day 90.

(4) Multiply all Level 2 instruments by 93 percent of the market value.

(5) Multiply all other qualified investments held for meeting the bank's liquidity policy and contingency plans by 85 percent of market value unless they merit Level 1 or Level 2 instrument discounts.

(h) *Contingency Funding Plan (CFP).* The board of each Farm Credit bank must adopt a CFP to ensure sources of liquidity are sufficient to fund normal operations under a variety of stress events including market disruptions, rapid increase in loan demand, unexpected draws on unfunded commitments, difficulties in renewing or replacing funding with desired terms and structures, requirements to pledge collateral with counterparties, and reduced market access. Each Farm Credit bank must maintain an adequate level of unencumbered and marketable assets in its liquidity reserve that can be converted into cash to meet its net liquidity needs based on estimated cash inflows and outflows for a 30-day time horizon under an acute stress scenario. The board of directors must review and approve the CFP at least once every year and make adjustments to reflect changes in the bank's risk profile and market conditions. The CFP must:

(1) Be customized to the financial condition and liquidity risk profile of the bank and the board's liquidity risk tolerance policy.

(2) Identify funding alternatives that the Farm Credit bank can implement whenever access to funding is impeded,

which must include, at a minimum, arrangements for pledging collateral to secure funding and possible initiatives to raise additional capital.

(3) Require periodic stress testing, which analyzes the possible impacts on the bank's cash inflows and outflows, liquidity position, profitability and solvency under a variety of stress scenarios.

(4) Establish a process for managing events that imperil the bank's liquidity, and assign appropriate personnel and implement executable action plans that carry out the CFP.

(i) *Reservation of Authority.* The Farm Credit Administration reserves the right to require a Farm Credit bank to adjust the treatment of assets in its liquidity reserve so that it has liquidity that is sufficient and commensurate for the risks it faces. The Farm Credit Administration reserves the right to use this authority in response to adverse financial, economic, or market conditions by requiring any Farm Credit bank, on a case-by-case basis, to:

(1) Apply a greater discount to any individual security or any class of securities;

(2) Shift individual or multiple securities from one level of the liquidity reserve to another, or between one of the levels of the liquidity reserve and the supplemental liquidity buffer based on the performance of such asset(s), or based on financial, economic, or market conditions affecting the liquidity and solvency of the bank;

(3) Spread out or otherwise change concentrations in the allocation of securities in any level of the bank's liquidity reserve and its supplemental liquidity buffer;

(4) Perform additional stress tests using other or different stress criteria or scenarios;

(5) Hold additional liquid assets to cover unfunded commitments and other contingent outflows; or

(6) Take any other action that the Farm Credit Administration deems necessary to ensure that the bank has sufficient liquidity to meet its financial obligations as they fall due.

Dated: December 15, 2011.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2011–32698 Filed 12–23–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No.FAA–2011–1387; Notice No. 23–11–02–SC]

Special Conditions: XtremeAir GmbH, XA42; Acrobatic Category Aerodynamic Stability

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the XtremeAir GmbH XA42 airplane. The XA42 airplane has a novel or unusual design feature associated with its static stability. This airplane can perform at the highest level of aerobatic competition. To be competitive, the aircraft was designed with positive and, at some points, neutral stability within its flight envelope. Its lateral and directional axes are also decoupled from each other providing more precise maneuvering. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. These special conditions are only applicable to aircraft certified solely in the acrobatic category.

DATES: Send your comments on or before January 26, 2012.

ADDRESSES: Send comments identified by docket number FAA–2011–1387 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ross Schaller, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4162; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On May 3, 2011, XtremeAir GmbH applied for a type certificate for their new XA42. The XA42 is certified under EASA authority as a dual category (acrobatic/utility) airplane. It has a two-place tandem canopy cockpit, and a single-engine. It also features a conventional landing gear, conventional low-wing planform and is of composite construction. The engine is a Lycoming AEIO–580–B1A with a rated power of 315 Hp at 2,700 rpm. The airplane is proposed to be approved for Day-VFR operations with no icing approval.

The maximum takeoff weight is 2,200 pounds in utility category, 1,874 pounds in acrobatic category. V_{NE} is 225 knots,